



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
WATER AND
WATERSHEDS

Mr. Jeff Krupka
Supervisory Fish and Wildlife Biologist
US Fish and Wildlife Service – Washington Fish and Wildlife Office
Central Washington Field Office
215 Melody Lane, Suite 103
Wenatchee, Washington 98801

Dear Mr. Krupka:

The US Environmental Protection Agency (EPA) is re-proposing to issue a National Pollutant Discharge Elimination System (NPDES) Permit to the US Fish and Wildlife Service (USFWS), Leavenworth National Fish Hatchery (LNFH). The Permit will place conditions on the discharge of pollutants from the LNFH into Icicle Creek, a surface water of the United States, pursuant to the provisions of the Clean Water Act (CWA), when issued. Enclosed for your information and review is a copy of the Draft NPDES wastewater discharge Permit. Also included is the fact sheet which outlines the basis for the Permit conditions.

In the US Code of Federal Regulations (CFR) at 40 CFR 122.24, and in Appendix C of 40 CFR 122, the EPA has defined a hatchery, fish farm, or other facility as a concentrated aquatic animal production (CAAP) facility if it contains, grows, or holds more than 20,000 pounds of aquatic animals in ponds, raceways, or similar structures. CAAP facilities are also defined as discharging at least 30 days out of the year, and feeding more than 5000 pounds of fish feed in the maximum month of feeding. At the LNFH, more than 20,000 pounds of aquatic animals are produced and released each year, and the range of food pounds fed during the maximum month of feeding was determined to be between 9643 in 2015 and 13,528 pounds in 2011. Therefore, the LNFH is clearly a CAAP facility for which an NPDES Permit is necessary to authorize discharges of wastewater to surface waters of the U.S. under the CWA.

Although the EPA has delegated the authority to administer the NPDES Program to the State of Washington Department of Ecology (Ecology) for most of the wastewater permitting in the state, the EPA retains the authority to administer the NPDES Program for federal and tribal facilities within the State of Washington.

The Endangered Species Act (ESA), at 16 U.S.C. § 1536, requires federal agencies to consult with the USFWS and/or the National Oceanic and Atmospheric Administration - Fisheries Service (NOAA Fisheries) if their actions could beneficially or adversely affect any threatened or endangered species, or their critical habitat. In this action, the federal agency is the EPA, and the federal action is the proposed issuance of a NPDES Permit to the USFWS for CWA authorization to discharge wastewater from the LNFH into Icicle Creek. The consultation is meant to ensure that this NPDES Permitting Action will not jeopardize the continued existence of any endangered or threatened species, any species proposed to be listed as endangered or threatened, nor result in the destruction or adverse modification of critical habitat for such species.

The EPA reviewed the list of threatened and endangered species located in Chelan County, Washington, that have been designated by the USFWS

http://ecos.fws.gov/tess_public/reports/species-by-current-range-county?fips=53007

along with the EPA Biological Evaluation (BE) recently developed for ESA consultation on the NPDES General Permit for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country within the Boundaries of the State of Washington (Washington Hatchery General Permit) The LNFH was not included in the EPA's Washington Hatchery General Permit, due to having specific temperature and total phosphorus limits that apply to the facility. The LNFH is going to receive an individual NPDES Permit from the EPA; however, the chemicals in use at the LNFH and the operations involved in running and maintaining the LNFH are similar to those evaluated in the 2015 Washington Hatchery General Permit BE.

That is, since the LNFH hatchery chemicals are the same as the chemicals evaluated statewide, and the species of interest in Chelan County are a subset of all the species evaluated statewide in the BE, the EPA has determined that, consistent with the Washington Hatchery General Permit BE, the issuance of this LNFH NPDES Permit may affect, but **is not likely to adversely affect**, listed species within the action area.

The BE was finalized on December 24, 2015, and submitted to the USFWS and NOAA Fisheries in order to engage in ESA Section 7 consultation on the potential impacts of permitting federal and tribal fish hatcheries around Washington State. The BE can be downloaded from the EPA website at

https://www3.epa.gov/region10/pdf/permits/npdes/wa/WA_Hatchery_GP_WAG130000_BE.pdf

Of the ESA listed species for Chelan County, Washington, the species agreed upon among the EPA, USFWS, and NOAA Fisheries on August 7, 2014, for inclusion in the risk evaluation and effects determinations in EPA's Washington Hatchery General Permit BE include:

- Bull Trout (*Salvelinus confluentus*)
- Oregon Spotted Frog (*Rana pretiosa*)
- Marbled Murrelet (*Brachyramphus marmoratus*)

The EPA Washington Hatchery General Permit BE describes these species on pages 26-27, 33, and 34. On page 35 of the BE, the EPA includes a GIS map of the spatial extent of the Oregon Spotted Frog and Marbled Murrelet habitat within Washington State, and the map is included again below. This map shows that no habitat for the Oregon Spotted Frog exists in the vicinity of the Leavenworth National Fish Hatchery; **therefore, consistent with the BE, the EPA has determined that the Oregon Spotted Frog will not be exposed to any chemicals or LNFH facility operations, and the Draft Permit will have no effects on the frog.**

In addition, no habitat for the Marbled Murrelet exists in the vicinity of the Leavenworth National Fish Hatchery. Page 37 of the BE states, "Because of the external toxic mode of action of the chemicals evaluated in the BE, and because of their short persistence in the environment, dietary ingestion and food web transfer of these chemicals is unlikely...It is also very unlikely that the operation or maintenance [of fish hatcheries] required by this Permit could disturb the habitat of nesting birds (e.g. noise from settling pond dredging)." **Thus, consistent with the BE, the EPA has determined that the Marbled Murrelet will not be exposed to the effects of any**

chemicals or LNFH facility operations, and that the Draft Permit will have no effects on the bird.

On page 43 of the BE, the final list of chemicals used at hatcheries in Washington for which the EPA believes there is the potential to be released to surface waters where Bull Trout, the remaining listed species in Chelan County that was evaluated for risks and for which EPA made an effects determination in the Washington Hatchery General Permit BE, are present:

- Chloramine-T
- Chlorine
- Formalin
- Hydrogen Peroxide
- Potassium permanganate
- Povidone-iodine
- Sodium chloride

Of these seven (7) chemicals, all but sodium chloride (NaCl or common table salt) were evaluated for effects in the EPA Washington Hatchery General Permit BE. **On page 176 of the BE, the EPA made the determination that the NPDES permitting of hatcheries in the State of Washington may affect, but is not likely to adversely affect Bull Trout.** The EPA and the USFWS successfully completed ESA consultation on the Washington Hatchery Permit on June 2, 2016. The USFWS sent a letter to EPA Region 10 affirming concurrence with the effects determinations detailed in the Washington Hatchery General Permit BE. That concurrence letter is enclosed here for your reference.

The EPA is now requesting that you download the Washington Hatchery General Permit BE, along with reviewing the enclosed update to Chapters 1-4 that tailor the federal action and the action area to the USFWS Leavenworth National Fish Hatchery facility (Leavenworth Specific Forward to the BE). Given the successful completion of consultation on the EPA Washington Hatchery BE, and because all of the risk assessment and effects analysis work was recently done statewide for the EPA Washington Hatchery General Permit, the EPA believes that the same analysis and conclusions hold for the LNFH.

This letter and its enclosures comprise the EPA request for informal ESA consultation on the proposed issuance of a NPDES Permit to the USFWS LNFH. If you have any questions about the information presented, please feel free to contact me at (206) 553-1755; or Jill Nogi, of my staff, at (206) 553-1841 or nogi.jill@epa.gov

Please respond to our request for concurrence in the next 60 days. In addition, any comments that you have on the Draft Permit are due to the EPA by the end of the public comment period. The EPA will be happy to inform you of the date that the public comment period will close in the near future.

Sincerely,

Michael J. Lidgard, Manager
NPDES Permits Unit
EPA Region 10

Cc: Mark Celedonia, Washington Fish and Wildlife Office, Lacey

Enclosures

1. Draft NPDES Permit for the Leavenworth National Fish Hatchery
2. Fact Sheet Accompanying the Draft Permit
3. October 2016 Forward to the December 2015 EPA Biological Evaluation for the Washington Hatchery General Permit Endangered Species Act Section 7 Consultation with the USFWS
4. Excel Spreadsheets Detailing the Risk Assessment and Effects Analysis Work
5. June 2016 USFWS Concurrence with the December 2015 Biological Evaluation